James H. Cunningham
NAME
V-72323
PRISON NUMBER
California Mens Colony State Prison
CURRENT ADDRESS OR PLACE OF CONFINEMENT
San Luis Obispo. CA 93409-8101
CITY, STATE, ZIP CODE

2254 ✓ 1983
FILING FEE PAID
Yes ___ No ✓
IFP MOTION FILED
Yes ✓ No ___
COPIES SENT TO
Court ✓ ProSe ___

FILED
NOV 13 2007
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

'07CV 2183 DMS RBB

James H. Cunningham,
(FULL NAME OF PETITIONER)

PETITIONER

v.

John Marshall Warden CMC-E
(NAME OF WARDEN, SUPERINTENDENT, JAILOR, OR AUTHORIZED PERSON HAVING CUSTODY OF PETITIONER [E.G., DIRECTOR OF THE CALIFORNIA DEPARTMENT OF CORRECTIONS])

RESPONDENT

and

___________________,

The Attorney General of the State of California, Additional Respondent.

Civil No. ___________________
(TO BE FILLED IN BY CLERK OF U.S. DISTRICT COURT)

PETITION FOR WRIT OF HABEAS CORPUS

UNDER 28 U.S.C. § 2254
BY A PERSON IN STATE CUSTODY

1. Name and location of the court that entered the judgment of conviction under attack: Superior Court San Diego County 250 E. Main St. El Cajon CA 92020
2. Date of judgment of conviction: ___________________
3. Trial court case number of the judgment of conviction being challenged: NO. SCE 243538 Appeal - NO. D046320
4. Length of sentence: 12 yrs.

5. Sentence start date and projected release date: 4-9-05 11-20-2014

6. Offense(s) for which you were convicted or pleaded guilty (all counts): PC 245 (A)(2), PC 12022.5(A) PC 12021(A)(1) PC 1202(A)(1)

7. What was your plea? (CHECK ONE)
   (a) Not guilty ☑
   (b) Guilty ☐
   (c) Nolo contendere ☐

8. If you pleaded not guilty, what kind of trial did you have? (CHECK ONE)
   (a) Jury ☑
   (b) Judge only ☐

9. Did you testify at the trial?
   ☐ Yes ☐ No

DIRECT APPEAL

10. Did you appeal from the judgment of conviction in the **California Court of Appeal**?
   ☐ Yes ☐ No

11. If you appealed in the **California Court of Appeal**, answer the following:
   (a) Result: Judgement Affirm
   (b) Date of result, case number and citation, if known: 9-18-05
   (c) Grounds raised on direct appeal: Trial court erred by denying Appellant's request to cross-examine prosecution witness. The trial court error in giving CAL-JIC number 2.52 the statutory flight instruction

12. If you sought further direct review of the decision on appeal by the **California Supreme Court** (e.g., a Petition for Review), please answer the following:
   (a) Result: Petition for review denied
   (b) Date of result, case number and citation, if known: 5-16-06
   (c) Grounds raised: The trial court erred by denying appellant request to cross-examine prosecutions witness. The trial court erred by denying Appellants request to cross-examine. Necessity for review of this appeals opening brief. another isse involves the court excluding impeachment evidence against one of the prosecution two witness for lying

13. If you filed a petition for certiorari in the **United States Supreme Court**, please answer the following with respect to that petition:

(a) Result: none

(b) Date of result, case number and citation, if known: __________

(c) Grounds raised: none

COLLATERAL REVIEW IN STATE COURT

14. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions (e.g., a Petition for Writ of Habeas Corpus) with respect to this judgment in the **California Superior Court**?

☒ Yes ☐ No

15. If your answer to #14 was "Yes," give the following information:

(a) **California Superior Court** Case Number: S142590 SCE243538 S151640

(b) Nature of proceeding: Petition for review

Write of Habeas Corpus

(c) Grounds raised: The trial court erred by denying Petitioner's request to cross-examine Rebecca Knox reguarding her prior accusations of domestic violence against her husband Christopher Knox, which she later recanted, and thereby violated Petitioner's State & Federal rights.

(d) Did you receive an evidentiary hearing on your petition, application or motion?

☐ Yes ☒ No

(e) Result: none

(f) Date of result: MAY 17, 2006 denied REVIEW; writ of Habeas Corpus denied.

16. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions (e.g., a Petition for Writ of Habeas Corpus) with respect to this judgment in the **California Court of Appeal**?

☒ Yes ☐ No

17. If your answer to #16 was "Yes," give the following information:

(a) **California Court of Appeal** Case Number: D046320

(b) Nature of proceeding: Appealing trial conviction

(c) Grounds raised: The trial court erred by denying Petitioner's request to cross-examine Rebecca Knox reguarding her prior accusations of domestic violence against her husband Christopher Knox,which she later recanted and thereby violated Petitioner's State and federal rights

(d) Did you receive an evidentiary hearing on your petition, application or motion?

☐ Yes ☒ No

(e) Result:

(f) Date of result:

18. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions (e.g., a Petition for Writ of Habeas Corpus) with respect to this judgment in the **California Supreme Court**?

☒ Yes ☐ No

19. If your answer to #18 was "Yes," give the following information:

(a) **California Supreme Court** Case Number: S142559 check ✓ & S161640

(b) Nature of proceeding: Petition for review denied

Writ of Habeas Corpus denied

(c) Grounds raised: The court erred by denying Petitioner's request to cross examine Rebecca Knox reguarding her accusations of domestic violence against her husband Christopher Knox,which she later recanted,and thereby violated Petitioner's State and Federal rights

(d) Did you receive an evidentiary hearing on your petition, application or motion?

☐ Yes ☒ No

(e) Result: none

(f) Date of result:

20. If you did *not* file a petition, application or motion (e.g., a Petition for Review or a Petition for Writ of Habeas Corpus) with the **California Supreme Court**, containing the grounds raised in this federal Petition, explain briefly why you did not:

Petitioner for review was file May 17 2006 And Review was deined SAME Grounds Raised with California As in Federal court I when back into Cal-s-court to get a Judgment for Impeachment After futher review of my case. I'M currently exhaust

COLLATERAL REVIEW IN FEDERAL COURT

21. Is this your **first** federal petition for writ of habeas corpus challenging this conviction?

☒ Yes ☐ No (If "Yes" Skip to #22)

(a) If no, in what federal court was the prior action filed? N/A

(i) What was the prior case number? N/A

(ii) Was the prior action (Check One):

☐ Denied on the merits?

☐ Dismissed for procedural reasons?

(iii) Date of decision: N/a

(b) Were any of the issues in this current petition also raised in the prior federal petition?

☐ Yes ☐ No

(c) If the prior case was denied on the merits, has the Ninth Circuit Court of Appeals given you permission to file this second or successive petition?

☐ Yes ☐ No

CAUTION:

- **Exhaustion of State Court Remedies:** In order to proceed in federal court you must ordinarily first exhaust your state court remedies as to each ground on which you request action by the federal court. This means that even if you have exhausted some grounds by raising them before the California Supreme Court, you must first present *all* other grounds to the California Supreme Court before raising them in your federal Petition.
- **Single Petition:** If you fail to set forth all grounds in this Petition challenging a specific judgment, you may be barred from presenting additional grounds challenging the same judgment at a later date.
- **Factual Specificity:** You must state facts, not conclusions, in support of your grounds. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do. A rule of thumb to follow is — state who did exactly what to violate your federal constitutional rights at what time or place.

GROUNDS FOR RELIEF

22. **State *concisely* every ground on which you claim that you are being held in violation of the constitution, law or treaties of the United States. Summarize *briefly* the facts supporting each ground.** If necessary, you may attach pages stating additional grounds and/or facts supporting each ground.

(a) **GROUND ONE:** The Sixth amendment standard to impeachment Evidence has Constitutional guarantee of a Meaningfull presents to proper complete defense is guarantee in due process clause of the fourtheen Amendment.

Supporting FACTS (state *briefly* without citing cases or law)

The issue involves the trial court violating Petitioners rights by Exculding impeachment evidence against Rebbeca Knox. See in R.T. Vol 3 prosecution two witnesses R.Knox & H.Castro has a obigor to tell the truth in any Matter Exspecialy critical Testimoney. from Sept. 12.04 Night of the incident an throughout trial. Defense recognize credibility of the witnesses is of course aways in issue. Petitioner possess evidence that would impeach witnesses instantly. The fact Petitioner couldn't question R.Knox about her current investigation that was going on with her, deflected credibility about her criminal history. see in R.T. Vol 3) The trial court with knowlege of this violated Petitioners Trial rights by exculding cross-examination and striking defence motions. R.Knox carried the day for the prosecution. But by the court hearing testimoney an recanting by R.Knox. The court gave no instrutions too impeach or disregard witness testimony. Petitioner had no chance to be formable in his defence. Petitioner had a formable cross-Examination entirely proper and Timely. The trial courts attitude, Misbehavior of Prosecution the true out come May never be know! The case calls for a reversal Respectfully speaking the exculsion of evidence is clearly unfair. Petitioner doesn't want to be burdensome against Justic & truth but, for truth & Justic. If its fair to say a much more favorable verdict for the Petitioner Minus the errors.

Did you raise GROUND ONE in the California Supreme Court?

☒ Yes ☐ No.

Ground 2

GROUND: Petitioner's sixth & fourteeth amendment right to confront witnesses was violated by the trial court. In failing to let Petitioner cross-examine the witnesses that testifyed against Petitioner.

Supporting FACTS (state *briefly* without citing cases or law): ON March 9, 2006 The Court of appeals affirmed the judgement. Petitioner, Petition for review that has necessity for review see in Exhibit Dept. 12 The first issue involves the Courts excluding impeachment against one of the Prosecution key witness (see in R.T. Pa: 12; 3, 28..., Vol #2) At first the trial Court concluds the evidence was relavant. But excluded it as to time consuming (see in R.T. Pa. 13; 5, 28.... Pa.: 14; 1....) Vol #2 Second it was the Jury's place to assess witness creditbility. Rebbeca Knox previous behavior that involved lying about criminal conduct also reveal a lack of respect for the criminal Justic System an is rellevant for impeachment. The Court knew of her proffer impeachment evidence and the previous arrest of her husand (see in R.T. Pa: 13; 13, 26..., Vol #2 Through some cross-examination when ask about Her domestic violents she say's it never happen. Rebbeca's testimoney of the alleged night was different 9-12-04 testimoney. But with some more refuted cross-examination she recanted the whole domestic vidents ordeal. The suspect testimoeny of H. Castro whom say's he was attack with force on his neck show no marks, too what he told too on cite police officer Chase (see in R.T. Vol #2 - Dept #12) There where no mention. Castro testified the night of the incident his memory was fuzzy because of his medication (see in R.T. Vol #2) He states. I suffer from a metal disorder that cause him to hear yelling and believe people were coming to kill him also the mental disorder caused him too hallucinate evens exactly like the ones he attributed to Petitioner. Castro was not qualified to testify in a criminal case.

Did you raise GROUND FOUR in the California Supreme Court?

☒ Yes ☐ No.

(c) **GROUND THREE**: The Court Errored by denying the defence request to instruct with Cal-JIC Number 12.50 When the Evidence warrant such instution.

Supporting FACTS (state *briefly* without citing cases or law): Petitioner testify that he Possess a shotgun for self defence. Petitioner was in a situation where self defence warrant Protection. Petitioner had been attack six months before the charged offenses, there where a lot of gang activity in this apartment complex. Petitioner recieved specific out burstes of death threats from the Knox's. The Evidence showed the need for Protection in the area: The complex had armed security officers on Patrol daily from 6:00 to 2:00am. The is testimoney by officer Chase that he had ecaunter's with Knox's see in B.T. Dept.* 12. Petitioner feels he had a constitutional right to have the Jury determine every material issue presented by the Evidence. Petitioner Points out denied request instruction deprived Petitioner. The Court considered the instruction and declined to give it. Petitioner as a reasonable Person have grounds for believing that he was in imminent peril of great bodily harm. Moreover with out preconceived design on his part. a fire arm was made available. there where great concerns that Chris Knox would attach Petitioner see in testimoney R.T. Vol.* 2 Exibit. Petitioners Life had been threaten by Chris Knox before the incident Sept 12,04. Castro the allege victim in the charge incident testifyed he had heard Chris Knox threaten to kill Petitioner on several occastions during June thru aug. 2004. Petitioner testifed about Mr. Knox threatening Petitioner with a bat a(deadly weapon) see in R.T. Vol #2 R.T. Vol.* 2 Exibit. also on Sept 12.04. Again bat used as a deadly weapon this time witness Talvera seen and testify too this. Knox also threaten Her Mother apartment Manager, Ms. Teich. In property there is a 911 call showing expressions of threat's scream out by Mr. & Ms. Know. Threats to shoot Petitioner in his face.

Did you raise GROUND THREE in the California Supreme Court?

☒ Yes ☐ No.

(d) **GROUND FOUR**: The trial Court Erred in giving Cal-Jic #2.52 The statutory flight instruction, over Defense objection there by violated Petitioner due process rights.

Supporting FACTS (state *briefly* without citing cases or law): Petitioner on the Nite of 9-12-04. Had a good expanation for distanding Himself from a deadly situation petitioner feels if he wouldn't of left in a instant the chance's of him being assulted was there. The person doing all the threatening was known to carry out his threats throughout the community. The courts has testimoney of his violent temper (SEE in R.T. Vol.#2) Mr. Knox attempted to play a dangerou situation out with a deadly weapon in hand, Petitioner and residents was terrified of Mr. Knox he was well Establish as a scary women beating deadly weapon carring Person. There is testimoney to this fact (SEE in R.T. Vol #2.) His wife is also associated with Violents and Check fraud. R Knox had several Violent moments with Her husband that's how we became friends (SEE in Vol.#2) My home was a safe Heaven for her untile commited theft, Violents and check fraud (SEE in Vol.#2) When confronted about it R.Know grew angry at Petitioner and, vow she would get me back for speaking on it are friendship was broken up. Over her violent temper and threats. Mr. Knox & Mrs. Know directed threats to me and my daughter all the way up till Sept. 12. 2004. SEE in R.T. Vol.#2 - (Evidence 911 call). The couples last day in the Apt. they an friends stired up trouble with me. They both Blame me for their Eviction. My home was broken into that Night. I approach them about it words were exchange then all of a sutton C. Knox came creeping out the room with His famous bat motioning to hit me with it. When he said, He would knock my head that's all it took I was gone.

Did you raise GROUND FOUR in the California Supreme Court?

☒ Yes ☐ No.

23. Do you have any petition or appeal **now pending** in any court, either state or federal, pertaining to the judgment under attack?
☐ Yes ☑ No

24. If your answer to #23 is "Yes," give the following information:
(a) Name of Court: N/A
(b) Case Number: N/A
(c) Date action filed: N/A
(d) Nature of proceeding: N/A
(e) Grounds raised: N/A
(f) Did you receive an evidentiary hearing on your petition, application or motion?
☐ Yes ☑ No

25. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:
(a) At preliminary hearing: Mr. Stacey Gulley; Deputy Public Defender
330 Broadway
(b) At arraignment and plea: SAME
(c) At trial: SAME
(d) At sentencing: SAME
(e) On appeal: SUSAN KIESER; Appellate Defenders, INC.
(f) In any post-conviction proceeding: SAME
(g) On appeal from any adverse ruling in a post-conviction proceeding: SAME

26. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?
☐ Yes ☒ No

27. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?
☐ Yes ☒ No

(a) If so, give name and location of court that imposed sentence to be served in the future: ______________________________

(b) Give date and length of the future sentence: ______________________________

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?
☐ Yes ☒ No

28. Date you are mailing (or handing to a correctional officer) this Petition to this court: ______________________________

Wherefore, Petitioner prays that the Court grant Petitioner relief to which he may be entitled in this proceeding.

____
SIGNATURE OF ATTORNEY (IF ANY)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

NOV. 7, 2006
(DATE)

[signature]
SIGNATURE OF PETITIONER

PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF SAN DIEGO

I reside in the county of SAN DIEGO, State of California. I am over the age of 18 and not a party to the within action; My business address is: Susan K. Keiser, Attorney at Law, San Diego, CA. 92109.

On November 4, 2005, I served the foregoing document described as:

APPELLANT'S REPLY BRIEF

on all parties to this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Clerk, Court of Appeal
Fourth Appellate District
Division One
750 "B" Street, Suite 300
San Diego, CA 92101-8196
[via U.S Priority Mail per rule 40.1(b)(3)(A), Cal. Rules of Court]

Attorney General
110 West "A" Street, Suite 1100
PO Box 85266
San Diego, CA 92186-5266

Appellate Defenders, Inc.
555 West Beech St., Suite 300
San Diego, CA 92101

Mr. James Cunningham
V72323
1-T 143 up
5150 O'Byrnes Ferry Rd
Jamestown, CA 95327

Mr. Stacy Gulley
Deputy Public Defender
233 A Street
San Diego, CA 92101

Mr. Dan Link
Deputy District Attorney
330 W Broadway, #840
San Diego, CA 92101

Clerk, Superior Court
San Diego County
ATTN: Hon. Wm. J. McGrath
250 E. Main St.
El Cajon, CA 92020

I caused such envelope with postage thereon fully prepaid to be placed in the United States Mail at San Diego, California.

Executed on November 4, 2005, at San Diego, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

SUSAN K. KEISER

STATE OF CALIFORNIA
COUNTY OF SAN LUIS OBISPO

I am the party of the above entitled actions, a citizen of the United States and over the age of eighteen years, and a resident of San Luis Obispo County. My current address is:

____
California Men's Colony-East
P.O. Box 8101 Room______
San Luis Obispo, CA. 93409-8101

I CERTIFY (OR DECLARE), UNDER PENALTY OF PERJURY, THAT THE FOREGOING IS TRUE AND CORRECT.
EXECUTED ON NOV 7th, 2007, AT SAN LUIS OBISPO, CALIFORNIA, 93409-8101.

James H. Cunningham
PETITIONER

....

PROOF OF SERVICE BY MAIL

STATE OF CALIFORNIA
COUNTY OF SAN LUIS OBISPO

I AM A RESIDENT OF SAID COUNTY, I AM OVER THE AGE OF EIGHTEEN YEARS AND NOT A PARTY TO THE ABOVE ENTITLED ACTION. MY BUSINESS ADDRESS IS:

____
CALIFORNIA MEN'S COLONY-EAST
P.O. BOX 8101 / Room 6267X
SAN LUIS OBISPO, CALIFORNIA 93409-8101

ON NO7th, 2007, I SERVED THE WITHIN My statue of Limitation

ON THE PARTY: U.S.D.C. Southern District of California

IN SAID ACTION, BY PLACING A TRUE COPY THEREOF IN A SEALED ENVELOPE WITH POSTAGE THEREON PREPAID, IN THE UNITED STATES MAIL, AT CALIFORNIA MEN'S COLONY, SAN LUIS OBISPO, CALIFORNIA, 93409-8101, ADDRESSED AS FOLLOWS:

James Cunningham California Men's Colony, San Luis Obispo-
CA. 93409-8101

I DECLARE, UNDER PENALTY OF PERJURY, THAT THE FOREGOING IS TRUE AND CORRECT.
EXECUTED ON NOV 7th, 2007, AT SAN LUIS OBISPO COUNTY, CALIFORNIA.

[signature]
SIGNATURE OF DECLARANT

(REV..6/07)

MARY JAMESON
AUTOMATIC APPEALS SUPERVISOR
JORGE NAVARRETE
SUPERVISING DEPUTY CLERK
SAN FRANCISCO
—
NATALIE ROBINSON
SUPERVISING DEPUTY CLERK
LOS ANGELES

☐ SAN FRANCISCO 94102
EARL WARREN BUILDING
350 McALLISTER STREET
(415) 865-7000
—
☐ LOS ANGELES 90013
RONALD REAGAN BUILDING
300 SOUTH SPRING STREET
(213) 830-7570

Supreme Court of California

FREDERICK K. OHLRICH
COURT ADMINISTRATOR AND
CLERK OF THE SUPREME COURT

March 27, 2007

James Cunningham #V-72323
Sierra Conservation Center
5150 O'Byrnes Ferry Road
Jamestown, CA 95327

Re: **Petition for Writ of Habeas Corpus**

Dear Mr. Cunningham:

Returned unfiled is your petition for writ of habeas corpus received March 26, 2007. **We must have an original signature**. Please sign the form at the place indicated and return it with the enclosed copy of this letter so that it may be properly filed along with the rest of your copies which we are holding pending receipt of your original petition.

Very truly yours,

FREDERICK K. OHLRICH
Court Administrator and
Clerk of the Supreme Court

By: I. Ganoc, Deputy Clerk

Enclosures

JS44

(Rev. 07/89)

CIVIL COVER SHEET

FILED

NOV 13 2007

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

2254 ___ 1983 ___
FILING FEE PAID
Yes ___ No ✓
IFP MOTION FILED
Yes ✓ No
COPIES SENT TO
Court ✓ Pro Se ✓

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

I (a) PLAINTIFFS

James H. Cunningham

DEFENDANTS

John Marshall

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF San Luis Obispo
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

James H. Cunningham
PO Box 8101
San Luis Obispo, CA 93409
V-72323

ATTORNEYS (IF KNOWN)

'07CV 2183 DMS RBB

II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT (For Diversity Cases Only)

	PT	DEF		PT	DEF
Citizen of This State	☐1	☐1	Incorporated or Principal Place of Business in This State	☐4	☐4
Citizen of Another State	☐2	☐2	Incorporated and Principal Place of Business in Another State	☐5	☐5
Citizen or Subject of a Foreign Country	☐3	☐3	Foreign Nation	☐6	☐6

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

28 U.S.C. 2254

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT
- ☐ 110 Insurance
- ☐ Marine
- ☐ Miller Act
- ☐ Negotiable Instrument
- ☐ 150 Recovery of Overpayment &Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153Recovery of Overpayment of Veterans Benefits
- ☐ 160 Stockholders Suits
- ☐ Other Contract
- ☐ 195 Contract Product Liability

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury

PERSONAL INJURY
- ☐ 362 Personal Injury-Medical Malpractice
- ☐ 365 Personal Injury - Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

FORFEITURE/PENALTY
- ☐ 610 Agriculture
- ☐ 620 Other Food & Drug
- ☐ 625 Drug Related Seizure of Property 21 USC881
- ☐ 630 Liquor Laws
- ☐ 640 RR & Truck
- ☐ 650 Airline Regs
- ☐ 660 Occupational Safety/Health
- ☐ 690 Other

LABOR
- ☐ 710Fair Labor Standards Act
- 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt. Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc.
- ☐ Security Act

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (13958)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS - Third Party 26 USC 7609

OTHER STATUTES
- ☐ 400 State Reappointment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce/ICC Rates/etc.
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 810 Selective Service
- ☐ 850 Securities/Commodities Exchange
- ☐ 875 Customer Challenge 12 USC
- ☐ 891 Agricultural Acts
- ☐ 892 Economic Stabilization Act
- ☐ 893 Environmental Matters
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of Information Act
- ☐ 900 Appeal of Fee Determination Under Equal Access to Justice
- ☐ 950 Constitutionality of State
- ☐ 890 Other Statutory Actions

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectmant
- ☐ 240 Tort to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

CIVIL RIGHTS
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/Accommodations
- ☐ 444 Welfare
- ☐ 440 Other Civil Rights

PRISONER PETITIONS
- ☐ 510 Motions to Vacate Sentence Habeas Corpus
- ☒ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

☒ 1 Original Proceeding ☐ 2 Removal from State Court ☐ 3 Remanded from Appelate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION UNDER f.r.c.p. 23 **DEMAND $** Check YES only if demanded in complaint: **JURY DEMAND:** ☐ YES ☐ NO

VIII. RELATED CASE(S) IF ANY (See Instructions): JUDGE Docket Number

DATE 11/13/2007 ~~SIGNATURE OF ATTORNEY OF RECORD~~ [signature]